

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Kevin W. Bondy)	File No.: EB-09-LA-0026
)	NAL/Acct. No.: 200932900004
Licensee of Station WQGX752)	FRN: 0016490633
Encino, California)	

MEMORANDUM OPINION AND ORDER

Adopted: October 14, 2014

Released: October 14, 2014

By the Chief, Enforcement Bureau:

1. We dismiss as untimely a Petition for Reconsideration (Petition) filed by Kevin W. Bondy and affirm a forfeiture of \$24,000 against him for engaging in unlicensed operation, intentionally interfering with licensed radio operations, and refusing to allow an FCC inspection of his radio equipment. Mr. Bondy failed to file the Petition with the Commission's Secretary by the applicable deadline. The Enforcement Bureau's (Bureau) finding of violations by Mr. Bondy was supported by sufficient evidence and warranted the fine that has been imposed.

2. Specifically, in this Memorandum Opinion and Order, issued pursuant to Section 405 of the Communications Act of 1934, as amended (Act),¹ we dismiss the Petition² filed by Mr. Bondy, licensee of General Mobile Radio Service (GMRS) Station WQGX752,³ in Encino, California, of the *Second Bureau MO&O* issued by the Bureau on December 19, 2013.⁴ The *Second Bureau MO&O* affirmed a monetary forfeiture in the amount of \$24,000 against Mr. Bondy for: (1) willful and repeated violation of Section 301 of the Act,⁵ for engaging in unlicensed radio operation; (2) willful and repeated violation of Section 333 of the Act⁶ and Section 95.183(a)(5) of the Commission's rules (Rules),⁷ for intentional interference to licensed radio operations; and (3) willful violation of Section 303(n) of the Act,⁸ and Section 95.115 of the Rules,⁹ for refusing to allow an inspection of radio equipment by FCC personnel.

¹ See 47 U.S.C. § 405.

² See *Kevin W. Bondy*, Petition for Reconsideration (filed Jan. 27, 2014) (Petition).

³ We note that the GMRS license held by Mr. Bondy during the pendency of this case, callsign WQGX752, expired on May 17, 2012, but that he applied for and was issued a new GMRS license, callsign WQPH821, on May 23, 2012.

⁴ *Kevin W. Bondy*, Memorandum Opinion and Order, 28 FCC Rcd 16815 (Enf. Bur. 2013) (*Second Bureau MO&O*), *aff'g*, Memorandum Opinion and Order, 28 FCC Rcd 1170 (Enf. Bur. 2013) (*First Bureau MO&O*), *aff'g*, Forfeiture Order, 26 FCC Rcd 7840 (Enf. Bur. 2011) (*Forfeiture Order*), *aff'g*, Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200932900004 (Enf. Bur. May 14, 2009).

⁵ 47 U.S.C. § 301.

⁶ 47 U.S.C. § 333.

⁷ 47 C.F.R. § 95.183(a)(5).

⁸ 47 U.S.C. § 303(n).

⁹ 47 C.F.R. § 95.115.

3. Section 405(a) of the Act¹⁰ and Section 1.106(f) of the Rules¹¹ require the filing of a petition for reconsideration with the Commission's Secretary in Washington, D.C. within thirty days from the date of public notice of the final action.¹² In this case, public notice of the *Second Bureau MO&O* occurred upon release on December 19, 2013.¹³ The due date for a petition for reconsideration, taking into account holidays, was January 22, 2014.¹⁴ Thus, Mr. Bondy should have filed his Petition with the Commission's Secretary in Washington, D.C. no later than January 22, 2014.¹⁵ While Mr. Bondy emailed a copy of his Petition to the Bureau on January 21, 2014, there is no evidence that a copy was ever received by the Secretary of the Commission.¹⁶ As Section 1.106(i) of the Rules explicitly states, "[p]etitions submitted only by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed."¹⁷ Accordingly, because Mr. Bondy failed to both properly and timely file his Petition, we dismiss the Petition on procedural grounds.¹⁸

4. Were we to reach the merits of Mr. Bondy's Petition, we would find no basis for reconsideration.¹⁹ We agree that the forfeiture was supported by sufficient evidence that Mr. Bondy transmitted on frequencies that he had no authorization for and intentionally interfered with licensed operations on those frequencies, thereby willfully and repeatedly violating Sections 301 and 333 of the Act and Section 95.183(a)(5) of the Rules.²⁰ We also agree that there was sufficient evidence that Mr. Bondy willfully violated Section 303(n) of the Act and Section 95.115 of the Rules by refusing to allow an inspection of his radio equipment by FCC personnel.²¹ Finally, we agree that it is irrelevant that the target of Mr. Bondy's intentional interference was operating on unauthorized frequencies while assisting the FCC agent investigating Mr. Bondy.²² However, we need not reach these issues given that Mr. Bondy's Petition is procedurally defective and must be dismissed for failing to comply with the requirements of the Act and the Rules.

¹⁰ 47 U.S.C. § 405(a).

¹¹ 47 C.F.R. § 1.106(f).

¹² See 47 C.F.R. § 1.106(i).

¹³ See 47 C.F.R. § 1.4(b).

¹⁴ See 47 C.F.R. § 1.4(j).

¹⁵ See 47 C.F.R. §§ 1.4(j), 1.106(f).

¹⁶ A copy of the Petition was received in the FCC Mail Room on January 27, 2014.

¹⁷ 47 C.F.R. § 1.106(i).

¹⁸ See *Wash. Broad. Mgmt. Co., Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 6607 (2000) (dismissing a petition for reconsideration filed eight days late).

¹⁹ Reconsideration is appropriate only where the petitioner either demonstrates a material error or omission in the underlying order or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters. See 47 C.F.R. § 1.106(c); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (Enf. Bur. 2000) (citing *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)). A petition for reconsideration that simply reiterates arguments that were previously considered and rejected will be denied. *EZ Sacramento, Inc.*, 15 FCC Rcd at 18257, para. 2; 47 C.F.R. § 1.106(p).

²⁰ *Second Bureau MO&O*, 28 FCC Rcd at 16816, para. 3; *First Bureau MO&O*, 28 FCC Rcd at 1173, para. 7.

²¹ *Second Bureau MO&O*, 28 FCC Rcd at 16816, para. 3; *First Bureau MO&O*, 28 FCC Rcd at 1173, para. 8.

²² *Second Bureau MO&O*, 28 FCC Rcd at 16816–17, para. 3; *First Bureau MO&O*, 28 FCC Rcd at 1173, para. 7 n.26.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act²³ and Section 1.106 of the Rules,²⁴ the Petition for Reconsideration filed by Kevin W. Bondy **IS DISMISSED** and the *Second Bureau MO&O*, issued December 19, 2013, **IS AFFIRMED**.

6. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules immediately and no later than fifteen (15) calendar days after the release date of this Memorandum Opinion and Order.²⁵ If the forfeiture is not paid within the period specified, this case, which has been referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act,²⁶ will proceed. Kevin W. Bondy shall send electronic notification of payment to WR-Response@fcc.gov on the date said payment is made.

7. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁷ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

8. Any request for full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²⁸ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

²³ 47 U.S.C. § 405.

²⁴ 47 C.F.R. § 1.106.

²⁵ 47 C.F.R. § 1.80.

²⁶ 47 U.S.C. § 504(a).

²⁷ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁸ See 47 C.F.R. § 1.1914.

9. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order shall be sent by both regular mail and by certified mail, return receipt requested, to Kevin W. Bondy, at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau